

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

STEPHAN S.¹

Plaintiff,

5:23-cv-00102 (BKS/DJS)

v.

MARTIN O'MALLEY, Commissioner of Social Security,

Defendant.

Appearances:

For Plaintiff:

Howard D. Olinsky
Olinsky Law Group
250 South Clinton Street, Suite 210
Syracuse, NY 13202

For Defendant:

Carla Freedman, United States Attorney
Vernon Norwood, Special Assistant United States Attorney
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

I. INTRODUCTION

Plaintiff filed this action under 42 U.S.C. § 405(g) seeking review of the Commissioner of Social Security's denial of his application for Disability Insurance Benefits. (Dkt. No. 1). This matter was referred to United States Magistrate Judge Daniel J. Stewart for a Report and Recommendation. (Dkt. No. 8); Local Rule 73.2(d). On February 1, 2024, after reviewing the

¹ In accordance with the local practice of this Court, Plaintiff's last name has been abbreviated to protect his privacy.

parties' briefs, (Dkt. Nos. 14, 18, 19), and the Administrative Transcript, (Dkt. No. 9), Magistrate Judge Stewart issued a Report-Recommendation and Order recommending that Plaintiff's Motion for Judgment on the Pleadings, (Dkt. No. 14), be granted, that Defendant's Motion for Judgment on the Pleadings, (Dkt. No. 18), be denied and that Defendant's decision denying Plaintiff disability benefits be Remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings, (*see generally* Dkt. No. 20). Magistrate Judge Stewart advised the parties that under 28 U.S.C. § 636(b)(1), they had "14 days within which to file written objections" to the Report and that "failure to object to th[e] report within 14 days will preclude appellate review." (Dkt. No. 20 at 11–12). (citing *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e)). No objections were filed. For the reasons set forth below, the Report-Recommendation is adopted in its entirety.

II. DISCUSSION

As no objection to the Report-Recommendation has been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Report-Recommendation is adopted in its entirety.

III. CONCLUSION

For these reasons, it is hereby

ORDERED that Magistrate Judge Stewart's Report-Recommendation (Dkt. No. 20) is **ADOPTED** in all respects; and it is further

ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 14) is **GRANTED**; and it is further


ORDERED that Defendant's motion for judgment on the pleadings (Dkt. No. 18) is **DENIED**; and it is further

ORDERED that Defendant's decision denying Plaintiff disability benefits be **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the Report-Recommendation; and it is further

ORDERED that the Clerk is directed to close this case.

IT IS SO ORDERED.

Dated: February 28, 2024
Syracuse, New York


Brenda K. Sannes
Chief U.S. District Judge